

DECLARATION OF PROTECTIVE COVENANTS

OLDE DUCK BEACH SUBDIVISION

THIS DECLARATION made this the lath day of August, 1977, by Olde Duck Beach, Ltd., a corporation organized and existing under the laws of the State of North Carolina, with its principal office in Manteo, North Carolina, hereinafter called the "Declarant".

WITNESSETH:

THAT WHEREAS, Declarant is the owner of all the lands shown on the map hereinafter referred to, and whereas, Declarant desires to subject Lots 2 through 27, both inclusive, of said lands to certain protective covenants and use restrictions for the benefit of all of the owners of the property within said area;

NOW, THEREFORE, Declarant hereby covenants and agrees with all of the persons, firms or corporations now owning or hereafter acquiring any property in the area owned by it and referred to above, that all of the lots owned by Declarant as shown on that certain plat entitled "Subdivision Plat of Olde Duck Beach, Located North of Duck, Atlantic Township, Dare County, N. C." prepared by Seaboard Surveyors, Inc., Registered Land Surveyors, surveyed March 8, 1977, and platted March 14, 1977, recorded in Plat Cabinet A, Slide 7, Dare County Public Registry, said map or plat being incorporated herein by reference for a more complete and precise description are hereby subjected to the following restrictions as to the use thereof, running with said properties by whomsoever owned.

Additional lands may become subject to this Declaration. The Declarant, its successors and assigns has the option at anytime prior to December 31, 1987, to bring additional lands into the scheme of this Declaration. The additions authorized under this and the succeeding sub-sections shall be made by filing of record a Supplementary Declaration of Protective Covenants with respect to the additional property which shall extend the scheme of the Covenants and Restrictions of this Declaration of such property. Such Supplementary Declarations may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration, In no event, however, shall such Supplementary Declaration revoke the Covenants established by this Declaration on the properties described herein.

If any person, firm, partnership, or other legal entity, subsequently acquiring title to or possession of any lot or lots within said subdivision, or his or her heirs or assigns, and successors in interest, shall violate any of the restrictions hereinafter set out, it shall be lawful for any person owning real property situate in said subdivision, to Institute legal proceedings against the person or persons or entity, for violating any of

said restrictions, and either prevent him or it from doing so, or recover damages for such violations or both. Invalidation of any of these covenants by judgment or court order shall in no wise effect any of the other provisions, which shall remain in full force and effect.

I

Residential Use. The lots shall be exclusively used for residential purposes only, with no structures erected or maintained on any lot other than a private, single-family residence and a private garage for the sole use of the lot owner or occupant; however, when one owner acquires two or more adjoining lots, then in that event, the adjoining one or more lots may be used as one building site, in which event the side line restrictions hereinafter referred to shall apply to the outside perimeter property line of the combined lots acquired by one property owner. No lots may be re-subdivided without the written joiner of Olde Duck Beach, Ltd., and under no circumstances may a lot be re-subdivided for the purpose of creating additional lots.

II

Type, Size & Construction.

(a) No dwelling shall be constructed on any one building site containing less than 1100 square feet of living floor space. There shall be excluded from the above definition and calculation all wall space, garages, breezeways, porches, unfinished attics, even though the breezeways and porches are enclosed.

(b) The construction of a dwelling or garage shall not be commenced until the construction plans have been submitted in writing and approved by Olde Duck Beach, Ltd, its successors or assigns. Any addition to any dwelling or garage, including fencing, will require like additional approval.

In order to preserve a uniformity of beauty within the subdivision, no building, fence or other structure shall be erected, placed, moved onto, maintained, or in any way altered on any lot in the subdivision until the proposed building plans, specifications, exterior color or finish, plot plan and construction schedule shall have been approved in writing by Olde Duck Beach, Ltd., its successors or assigns. Said plot plan should include the proposed location and elevation of such building or structure, drive and parking area.

Olde Duck Beach, Ltd., its successors or assigns, may refuse approval of plans, location of buildings or specifications upon any ground, including purely esthetic considerations, which is in the sole discretion of Olde Duck Beach, Ltd., its successors or assigns.

(c) All dwellings must have private inside bathroom facilities, private water wells, and septic tanks, which conform to the minimum requirements in accordance with the Public Health laws and ordinances of the Dare County Board of Health.

(d) All structures shall be completed on the exterior and any alterations to the original structures within six (6) months from start of construction.

(e) No structure of a temporary nature, house-trailer, mobile home, trailer, modular home, basement, tent, shack, garage, barn or other out-building shall be occupied or stored on any residential lot either permanently or temporarily.

(f) No structure shall be moved on any lot unless it shall conform with and be in compliance with the existing conditions set, forth herein, including Approval of the Declarant.

III

Set Back Restrictions. No building shall be erected or maintained on any lot closer than twenty-five (25) feet from the front lot line, nor closer than eight (8) feet from the side lines. Buildings shall be erected or maintained on a lot so that twenty (20) feet of the lot area shall be open and free of construction behind the house. No building shall be erected or maintained on the ocean front except within the minimum building lines specified on the aforementioned plat, and in no event shall be in violation of any dune ordinances or laws enacted for the preservation of the dunes. For the purpose of this covenant, eaves, steps and open porches shall be considered as a part of a building.

Subject to the provisions of Section II (b), the foregoing shall not preclude owners of ocean front lots front building and maintaining steps, walkways and cabanas on the eastern side of the primary residence.

To assure the location of residences In the subdivision, said residences will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each resident in the subdivision; and so that all permanent structures will be located with regard to the topography of each individual lot, Olde Duck Beach, Ltd., its successors or assigns, shall have the right to decide the precise site, elevation and location of any residence or other structure upon all lots in the subdivision. Such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site.

IV

Nuisances.

(a) No nuisance or offensive, noisy, or illegal activity shall be done, suffered, or permitted upon any lot; no part of any lot shall be used or occupied injuriously to affect the use or value of the adjoining premises for residence purposes or the neighborhood wherein the premises are situated.

(b) No outdoor toilets or privies shall be permitted.

(c) Outside garbage and trash accumulation shall be emptied regularly, and all service utilities, fuel tanks, wood piles, and trash, and garbage accumulation, are to be enclosed within a wall or fence of a size and type approved by Olde Duck Beach, Ltd., or its assigns, so as to preclude same to cause any unsightly view.

(d) No signs of any kind, excepting signs advertising the property for rent or for sale, or to identify owner or occupant of the property, shall be erected on any lot. Said signs are to be no larger than 24" x 30". Olde Duck Beach, Ltd., its successors or assigns reserves the right to place such terms and conditions upon the size, design and placement of said signs, as it deems satisfactory.

(e) No animals, livestock or poultry of any kind, other than commonly accepted domestic pets, shall be kept or maintained on any lot. Said domestic pets shall not be permitted to run at large.

(f) No junk, wreck or inoperative automobile, truck, bus or boat shall be permitted to remain on the property, nor shall other unsightly materials be stored thereon.

(g) Owners of unoccupied lots shall at all times keep and maintain their property in this subdivision in an orderly manner and prevent the accumulation of rubbish and debris on the premises.

(h) All buildings, structures and other appurtenances shall be maintained in a suitable state of repair; and in the event of destruction by fire or other casualty, the premises are to be cleaned and cleared of debris within ninety (90) days from the date of such casualty.

(i) No lot in the community may be used as a street, lane, right-of-way or easement of which access might be obtained to adjacent property.

V

Olde Duck Beach Landowners' Association. Each lot owner in Olde Duck Beach Subdivision shall be a member of the Olde Duck Beach Landowners' Association.

(a) The purpose of the Olde Duck Beach Landowners' Association is the operation and maintenance of the road until such time as the same is accepted for maintenance by the public authorities, maintenance of the community properties, and any activity that the said association deems to be for the best interest of the subdivision property owners.

(b) Each lot owner shall be assessed annually the sum of Five (5) Dollars per original lot. The Board of Directors of the Association may, after consideration of maintenance costs and future needs of the Association, fix the actual assessment for any year at a higher or lesser amount.

(c) The annual assessment provided for herein shall begin on the 15th day of January, 1978; and the assessments for each succeeding year shall become due and payable on the 15th day of January of each calendar year thereafter.

(d) If the assessments are not paid when due, then such assessments shall become delinquent and shall, together with interest and cost of collection thereof, as hereinafter provided, become a continuing lien on the property.

(e) The Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, enforceable in the same manner as a mortgage or deed of trust.

(f) The responsibility to become a member of Olde Duck Beach landowners' Association is absolute and becomes effective whether or not the lot owner has built a structure on his lot.

(g) That no reservations, covenants, restrictions, or conditions imposed by this Declaration shall be construed or interpreted as personal to the Declarant herein and all reservations, covenants, restrictions or conditions imposed by this Declaration shall be held by Olde Duck Beach Landowners' Association.

V

Easement. The Declarant reserves to Olde Duck Beach, Ltd. a perpetual, assignable and releasable easement and right over, on and under the ground to erect, maintain and use electric, cable television and telephone poles, wires, cables, conduits, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, cable television, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in, over or under the front ten (10) feet, the rear ten (10) feet, and the side five (5) feet of each lot.

VI

Road. Each lot owner shall be responsible for the maintenance and repair of the road adjoining his lot to the extent of one-half thereof until such time as the North Carolina Highway Commission, or other State agency with jurisdiction over public roads, has accepted the roads for public maintenance.

VII

Violation. If the owners or occupants of any lot, or all of them, or their successors and assigns, shall violate any of the covenants and restrictions herein, it shall be the right of Olde Duck Beach, Ltd., or its assigns, or any lot owner to institute proceedings at law or in equity against the person or persons violating or attempting to violate, any such covenant or restrictions for the purpose of preventing him or them from so doing, or to recover damages for such violation, or both.

VIII

Duration. These covenants, reservations and restrictions are to run with the land and shall be binding upon Lots 2 through 27, both inclusive, as shown on the plat of Olde Duck Beach, Ltd., the owners of such lots, and upon all persons claiming under them, until Olde Duck Beach, Ltd. has divested itself from the title of all of the said lots included in this declaration, at which time said covenants, reservations and restrictions shall continue until the then owners of a majority of the lots shall record an instrument in the office of the Register of Deeds of Dare County, North Carolina, agreeing to change these covenants in whole or in part.

IN WITNESS WHEREOF, Olde Duck Beach, Ltd. has caused this Declaration of Restrictive Covenants to be executed in its corporate name by its President and attested by its Secretary, and its common seal affixed hereto, all as the act and deed of said Corporation as by authority of its Board of Directors duly and legally given, the 27th day of August, 1977.

Olde Duck Beach, Ltd.

Jasper N. Needham

NORTH CAROLINA

DARE COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Jasper N. Needham personally came before me this day and acknowledged that he is the secretary of Olde Duck Beach, Ltd., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its president, sealed with its corporate seal and attested by Jasper N. Needham as its secretary.

WITNESS my hand and seal this 27th day of August, 1977

Notary Public, My commission expires January 19th, 1988

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